

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. CWP No.9129 of 2013 (O&M)
Date of decision : 16.02.2017

Rajesh Kumar ...Petitioner

Versus

UT, Chandigarh and others ...Respondents

2. CWP No.7028 of 2009 (O&M)
Date of decision : 16.02.2017

Romesh Chander Batra
(deceased through LRs) ...Petitioner

Versus

Union Territory, Chandigarh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. M.L. Saggar, Senior Advocate with
Ms. Armaan Saggar, Advocate
for the petitioner.

Mr. B.S. Rana, Senior Advocate with
Ms. Simranjeet Kaur, Advocate
for respondent No.4 in CWP-9129-2013.

Mr. R.K. Malik, Senior Advocate, with
Mr. Ramandeep Singh, Advocate,
for respondent No.7.

Mr. Suvir Sehgal, Advocate,
Ms. Deepali Puri, Advocate,
Mr. Vikas Bali, Advocate and
Mr. Daman Dhir, Advocate
for respondent Nos.1 and 2/U.T. Chandigarh.

Mr. Deepak Sharma, Advocate
for respondent No.3.

Mr. M.S. Sindhu, Advocate,
for respondent No.4 in CWP-7028-2009.

Mr. Vikram Rana, Advocate,
for respondent No.5.

Mr. J.S. Yadav, Advocate,
for respondent No.6.

Mr. Rajbir Singh, AAG, Haryana.

AMIT RAWAL, J. (Oral)

Rajesh Kumar is the petitioner in CWP No.9129 of 2013, agreement holder and GPA of Raj Kumar Sangwan and Davinder Singh is the petitioner in CWP No.7028 of 2009 legal representatives of Romesh Chander Batra who were originally the members of the society namely “The Swati Cooperative House Building Society Ltd.”.

Prime grievance of the petitioners in the present writ petitions is that the expulsion (Annexure P-1) vide order dated 25.01.2005, is not backed by any resolution, in essence, it is not in accordance with the Rule 26 of the Punjab Cooperative Societies Rules as applicable to Chandigarh. There is no resolution of holding of meeting indicating agenda and decision thereon, in essence, there is no agenda, much less, Resolution proving the same. Against the expulsion, petitioners have already availed the remedy of appeal which was dismissed on 16.01.2009 (Annexure P-2) and revision petition is stated to be pending. However, the stay preferred therein was declined which resulted into filing of the present writ petitions in this Court and interim order regarding the expulsion was granted. Alongwith the aforementioned two persons, three other known members were also found to be defaulters in making the payment of the cost of the land. However, their expulsion as indicated from the written statement filed by respondent No.1

and 2 was withdrawn as owing to have made the payment.

Contention of Mr. M.L. Saggar, Id. Sr. Advocate assisted with Ms. Armaan Saggar, learned counsel for the petitioner is that expulsion is not according to the bye laws and as well as the procedure, much less, in law whereas in haste, the society allotted the plots to newly inducted member and to one Ranbir Singh, in essence, two flats reserved for the members have been allotted to other members who were not members of the society. Their induction has been found to be faulty in view of the stand taken in the written statement. All these pleas have been raised in the grounds of revision which is stated to be pending.

Mr. Suvir Sehgal, learned counsel appearing on behalf of respondent Nos.1 and 2 has informed the Court that perhaps the revision petition has been adjourned sine die on account of the pendency of the writ petition.

Contention of Mr. B.S. Rana, Senior Advocate assisted by Ms. Simranjeet Kaur, Advocate representing the Society is that the amount of cost of the land received vide letter Annexure P-32 in October, 2012 was on account of the fact that there was stay of the expulsion and interim order got vacated in view of the withdrawal of CWP No.7032 of 2009 on 08.12.2011. Amount was deposited by the petitioner in CWP No.9129 of 2013 on 24.11.2011 and he was permitted to cast the vote. However, petitioners are defaulters with regard to the cost of the flats which fact is evident from Annexure P-33 i.e. written statement filed by respondent Nos.4 to 6 in CWP No.7032 of 2009.

He further submits that amount of ₹28,27,724/- vide Annexure R4/6 attached with miscellaneous application bearing No.13469-CWP of 2016 has been paid to Mr. Raj Kumar Sangwan-respondent No.5. In fact, intricate dispute is between Raj Kumar Sangwan and Rajesh Kumar and remedy for the petitioner is to seek vindication of the grievance by filing civil suit.

Be that as it may. I deem it appropriate that instead of delving upon rival contention of the parties, direct the Advisor, Chandigarh Housing Board, Administration under the Act to decide the revision petition if pending within a period of two months from the date of receipt of certified copy of the order.

Liberty is granted to both the parties to apprise as to whether if statement made in the Court regarding pendency of the revision petition is found otherwise.

Interim order already granted by this Court shall continue.

Parties through their counsel are directed to appear before Advisor, Chandigarh Housing Board, Administration on 09.03.2017.

With the aforementioned observations, both the writ petitions stands disposed of.

16.02.2017
pawan

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**